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# W21b

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Staff:	Jim Baskin
Staff Report:	April 26, 2000
Hearing Date:	May 10, 2000
Commission Action:	

STAFF REPORT:    REGULAR CALENDAR

APPLICATION NO.:	<b>1-99-077</b>
APPLICANT:	<b>City of Eureka</b>
PROJECT LOCATION:	Along the City of Eureka's Inner-channel Waterfront of Humboldt Bay, from ±360 ft. west of the foot of C Street to ±290 ft east of the foot of F Street, Eureka, California
PROJECT DESCRIPTION:	Demolition of all existing dock structures and reconstruction of a 420-ft.-long commercial fishing wharf, a 1,190-ft.-long trestle public boardwalk, a 530-ft-long floating dock, and associated shoreline protective works.
LOCAL APPROVALS RECEIVED:	City of Eureka Coastal Development Permit No. CDP-11-99, approved December 21, 1999.
LOCAL APPROVALS PENDING:	Humboldt Bay Harbor, Recreation, & Conservation District, (tentatively scheduled for 4/27/00)
OTHER APPROVALS REQUIRED:	US Army Corps of Engineers CWA §404 Permit; and Regional Water Quality Control Board CWA §401 Certification.

SUBSTANTIVE FILE  
DOCUMENTS:

City of Eureka Local Coastal Program;  
City of Eureka General Plan EIR SCH #96072062;  
Eureka Inner-Channel Dock and Boardwalk  
Revitalization Project Mitigated Negative  
Declaration SCH #99112064, certified December  
21, 1999;  
Eureka Inner-Channel Dock and Boardwalk  
Revitalization Project Marine Resources Mitigation  
Monitoring and Reporting Program (SHN  
Consulting Engineers, 10/99);  
Eureka Inner-Channel Dock and Boardwalk Draft  
Planning Consideration Report (BERGER/ABAM,  
10/99);  
Geotechnical Investigation Inner-Channel Dock &  
Boardwalk Revitalization Projects (Harding Lawson  
Associates, 4/16/99); and  
Parking Maximization Study in the City of Eureka  
(SPECTRUM Engineering, 3/31/98)

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**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve with conditions the proposed City of Eureka Inner-Channel Dock and Boardwalk Revitalization Project. The project involves the removal of derelict waterfront structures and construction of an approximately 1,610-ft. long dock and boardwalk complex along approximately four blocks of the city's frontage on Humboldt Bay. Associated with these improvements are shoreline protection structures to protect the development from wave and tidal forces. The extension of public infrastructure to serve the project area would also be undertaken.

The project is a part of the City's on-going efforts to redevelop its waterfront which has included past approvals by the Commission for industrial dock works, commercial fishing support facilities, a small boat mooring basin, and coastal recreational and assembly amenities. The purpose of the project is to provide extensive public coastal access, recreational opportunities, and upgrade commercial fishing facilities along the City's central waterfront, an area presently occupied by an assortment of dilapidated buildings, piers, wharves and docking. It is the City's hope that these improvements will foster adjacent private development to revitalize its historic "Old Town" area and re-establish itself as a diversified northern California seaport.

As shoreline development, the project does raise potential concerns regarding protection of marine biological resources and coastal waters. In addition, ensuring that coastal access support facilities, such as parking areas, are adequately provided and located, risks

of exposure to geologic hazards are minimized, and visual resources are protected are other issues associated with the project.

The project setting is an urbanized waterfront planned and zoned for coastal-dependent and waterfront commercial uses. Though proposed mostly over tidal and submerged areas, the project site is landward of significant marine resource areas, most notably eelgrass (*Zostera marina*) beds along the inner-tidal mudflats adjacent to the navigation channel. The project has been configured to avoid intrusion into these areas. Demolition and construction activities have been conditioned to minimize effects to marine resources.

With respect to the potential impacts to marine resources, the project will involve the filling of coastal waters. A total of 4,280 cubic yards of fill as sheet piling, jetted/driven piles and shoreline protective works covering 7,115 square feet (ft<sup>2</sup>) will be placed in bay waters. In addition, boardwalk and wharf decking and a floating dock will shade approximately 19,315 ft<sup>2</sup> of intertidal mudflat, rocky intertidal, and saltmarsh habitat areas. Replacement of these habitat areas is proposed at a 1:1 areal exchange ratio of in-kind and out-of-kind habitat. As discussed herein, staff is recommending that the replacement for lost saltmarsh habitat should be in-kind and increased to a 2:1 ratio to ensure that habitat values are fully restored for this more complex habitat type.

During the environmental review of the project, the City and Commission staff consulted with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the California Department of Fish and Game and the North Coast Regional Water Quality Control Board regarding potential impacts to bay and near-shore habitats, and water resources. These agencies advised that the project was not likely to have significant adverse impacts on the beneficial uses of the waters of Humboldt Bay or to federal and state listed fish and wildlife habitat provided that in-water development activities are conducted within specified time periods, replacement mitigation for filled wetlands is provided, and established best management practices to contain and minimize water quality disruptions are included in demolition and construction phase activities. These mitigation measures have been included in the recommended special conditions for the project.

Ensuring that the proposed new development includes adequate support infrastructure, such as parking, and protects and enhances coastal access were other concerns identified for the project. Based upon a parking use study developed for the project area, there is adequate under-utilized public parking within a reasonable distance from the project site.

The geotechnical report for the project provides recommendations regarding the placement of fill, piles and the sheetpile bulkhead. These recommendations address the use of geotextile liners on excavated surfaces beneath fill materials, pile jetting techniques to avoid lateral shifts during pile erection, and design of anchoring for

sheetpile bulkhead. These recommendations have also been included as special conditions for the project.

Finalized plans for all boardwalk and plaza improvements are not available as of the writing of this report. Therefore, a plan review requirement has been included with the other project special conditions to assure that visual resources of the project area are not adversely affected once the designs for boardwalk and plaza lighting, signage, and street art structures are finalized.

Staff believes the proposed project as conditioned is consistent with the Coastal Act and recommends approval.

### **STAFF NOTES**

1. **Jurisdiction and Standard of Review.**

The proposed project is located within the incorporated boundaries of the City of Eureka along Humboldt Bay, about a mile inland from the ocean, in Humboldt County. The City of Eureka has a certified LCP, but those portions of the site below the High Tide Line are within an area shown on State Lands Commission maps over which the state retains a public trust interest. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

### **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

I move that the Commission approve Coastal Development Permit No. 1-99-077 pursuant to the staff recommendation.

**Staff Recommendation of Approval:**

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of the majority of the Commissioners present.

**Resolution to Approve Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as

conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. STANDARD CONDITIONS:** See attached.

**III. SPECIAL CONDITIONS:**

**1. U.S. Army Corps of Engineers Approval**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, permittee shall provide to the Executive Director a copy of a permit issued by the U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

**2. Final Wetland Mitigation Program**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director, a final wetland mitigation program for all wetland impacts associated with the proposed project. The program shall be developed in consultation with the California Department of Fish & Game and U.S. Fish & Wildlife Service and at a minimum shall include:

1. A detailed revised site plan of the wetland impact area that substantially conforms with the plan titled Eureka Inner Channel Dock and Boardwalk Revitalization Project Marine Resources Mitigation Monitoring and Reporting Program, dated October, 1999, and submitted to the Commission on November 24, 1999. The final plan must delineate all impact areas (such as on a map that shows elevations, surrounding landforms, etc.), the types of impact (both permanent and temporary), and the exact acreage of each impact so identified.
2. The baseline ecological assessment of the wetland impact area submitted on November 24, 1999.

3. A detailed final site plan of the mitigation site that substantially conforms with the site plan submitted to the Commission on November 24, 1999, as revised as follows:
  - a. Replacement of in-kind saltmarsh habitat area based upon an exchange ratio of 2:1; and
  - b. The location of intertidal mudflat and saltmarsh reference and monitoring cross-sections at the Parcel 4 mitigation site shall be shown.

The mitigation site plan shall include both the extent of restored areas and the buffer surrounding the restored areas from adjacent development.

4. The goals, objectives, and performance standards set forth in the report entitled Eureka Inner Channel Dock and Boardwalk Revitalization Project Marine Resources Mitigation Monitoring and Reporting Program, dated October, 1999, and submitted to the Commission on November 24, 1999, for the mitigation site, as revised as follows:
  - a. Plant cover percentages, density, and species diversity for replacement saltmarsh habitat based upon that in the reference area; and
  - b. Faunal re-colonization success reference and monitoring counts for replacement intertidal mudflat habitat based upon direct sampling of the density of appropriate benthic and epi-benthic indicator species using established biological survey protocols.
5. The final design and construction methods that will be used to ensure the mitigation site achieve the defined goals, objectives, and performance standards.
6. Provisions for the full restoration of all wetland impacts that are identified as temporary (such as temporary fill areas). Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
7. Provisions for submittal, within 30 days of completion of initial restoration work of “as built” plans demonstrating that the wetland mitigation site has been established in accordance with the approved design and construction methods.

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**3. Construction Responsibilities and Debris Removal**

The permittee shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- B. Any and all debris resulting from construction activities shall be removed from the bay immediately;
- C. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material; and
- D. Staging and storage of construction machinery and storage of debris shall not take place on any adjacent coastal access support facilities (e.g., parking lots, bike paths, or walkways).

**4. Erosion and Run-Off Control Plans**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and run-off control.

**1. EROSION CONTROL PLAN**

- a. The erosion control plan shall demonstrate that:
  - 1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and marine resources;
  - 2) The following temporary erosion and sedimentation control measures shall be used during construction: “dry season” construction scheduling, straw bale barriers, silt fencing, sandbag/coffer damming, and outlet protection (outfall energy dissipaters);
  - 3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties

and resources through the use of re-seeding and mulching of bare soil areas; and

- 4) The following permanent erosion control measures shall be installed: geo-textile liners beneath rock slope protection structures.

b. The plan shall include, at a minimum, the following components:

- 1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;
- 2) A site plan showing the location of all temporary erosion control measures;
- 3) A schedule for installation and removal of the temporary erosion control measures;
- 4) A site plan showing the location of all permanent erosion control measures; and
- 5) A schedule for installation and maintenance of the permanent erosion control measures.

## 2. RUN-OFF CONTROL PLAN

a. The run-off control plan shall demonstrate that:

- 1) Run-off from the project site shall not increase sedimentation in waters of Humboldt Bay;
- 2) Run-off from all decking, walkways, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site;
- 3) An on-site spill prevention and control response program, consisting of the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the commercial fishing dock site to capture and clean-up any pollutants accidentally releases of oil, grease, fuels, lubricants, or other hazardous materials from entering coastal waters, as approved by the Regional Water Quality Control Board; and
- 4) Scouring at stormwater outfalls is prevented through the installation of energy dissipaters at their points of discharge.



- b. The plan shall include, at a minimum, the following components:
      - 1) A schedule for installation and maintenance of the outfall energy dissipaters, and implementation of the spill prevention and control program; and
      - 2) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.
  - B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
5. **Conformance of Design and Construction Plans to Geotechnical Report Geologic Hazard**
- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Section 6.0 of the Engineering Geologic Report titled Geotechnical Investigation Inner Channel Dock and Boardwalk Revitalization Projects, Eureka, California, prepared by Harding Lawson Associates and dated April 16, 1999. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
  - B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
6. **Boardwalk Plaza Improvements Plan Review**
- A. **PRIOR TO PLACEMENT OF BOARDWALK AND PLAZA IMPROVEMENTS**, the applicant shall submit, for the review and approval of the Executive Director, final plans for improvements for the public boardwalk and "C" and "F" Street Plazas. The plans shall be prepared by a qualified professional with experience in the fields of architecture, landscape architecture, and/or historic preservation.

1. The plans shall demonstrate that future public improvements and amenities at the project site are:
    - a. Visually compatible with the character of surrounding areas with respect to lighting levels, structural heights, bulk, and do not significantly obstruct views from coastal scenic vistas (foot of “C” and “F” Streets) ; and
    - b. Subordinate to the character of its setting (i.e., Humboldt Bay Inner Channel waterfront, Old Town district) with respect to architectural style, surface treatments, and physical appearance.
  2. The plan review shall apply, either as one comprehensive review, or individually in modules, to the following types of improvements:
    - a. Lighting --- ZED® Z-40 or equivalent lamp posts, shielded to direct illumination onto deck surfaces and not into bay waters;
    - b. Informational kiosks and interpretative signage as detailed in the project site details (BERGER/ABAM, 12/7/99). Said kiosks and signage to be sited such that there long axis is parallel to coastal scenic vista points to minimize blockage of views; and
    - c. Street art (i.e., focal point structures, such as masts, lanyards, booms, riggings, play structures, etc.) as detailed in the project site details (BERGER/ABAM, 12/7/99). Said focal-point structures are not to exceed 35 feet in height for the “C” Street “boat” or 50 feet in height for the “F” Street “mast.”
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### **IV. FINDINGS AND DECLARATIONS.**

##### **A. Project Description.**

The proposed project consists of the demolition and reconstruction of over one-quarter mile of the City of Eureka’s central waterfront as part of an on-going economic development project for the area. Derelict dock, pier, wharf, bulkhead, and floating dock structures, comprising approximately 35,443 ft<sup>2</sup> in coverage, will be demolished with

their piles cut off at the bay mudline. An approximately 1,610-foot-long commercial fishing dock and public boardwalk complex would then be constructed.

1. Demolition and Construction Activities

Although the City intends to undertake construction of the dock and boardwalk complex in one phase, the project can best be described in units corresponding to the street blocks it adjoins from west to east as follows:

West of “C” Street: Demolish a deteriorated 380-ft.-long x 20-ft.-wide wooden dock structure fronting the site of the former Lazio Fish Company processing plant, consisting of approximately 150 creosote-treated wooden pilings and deteriorated decking over the easterly 290 feet. Remove the existing public floating dock, ramp, and bulkhead wall at the foot of “C” Street.

Construct a 420-ft.-long x 40-ft.-wide (16,800 ft<sup>2</sup>) concrete marginal wharf berth commercial fishing dock (“Fisherman’s Terminal Dock”) from 360± ft. west of the west line of “C” Street to the east line of “C” Street, equipped with three jib cranes with electric winches (2-2 tons, 1-5 tons capacity), bollards on 60-ft. centers at the pile caps, and a fender system of pre-cast concrete piling with ultra-high molecular weight (UHMW) plastic facing spaced at 10-ft. centers, and overhead lighting.

Construct approximately 380 lineal feet of interlocking sheetpile bulkhead wall per ASTM A-328 standards, at the landward edge of the Fisherman’s Terminal Dock, anchored by tie-rods and “dead man” anchors, including approximately 3,456 cubic yards (yd<sup>3</sup>) of engineered backfill and pavement.

“C” St. to “D” St.: Remove the existing Humboldt State University Rowing Crew private floating dock at the foot of “D” Street.

Demolish approximately eight single- and double-spar dolphins, comprising approximately 20 creosote-treated wooden pilings.

Install approximately 64 lineal feet of cutoff wall at the foot of “C” Street behind approximately 160 yd<sup>3</sup> (1,450 ft<sup>2</sup>) of rock slope protection.

Grade approximately 200 yd<sup>3</sup> of the existing top of bank and install 270± lineal feet (3,950 ft<sup>2</sup>) of rock slope protection from the east line of “C” Street to “D” Street.

Construct a concrete public boardwalk extending over Humboldt Bay, generally ranging in width from 16-24 ft., with a 60-ft.-width at the foot of "D" Street, with the landward edge at the top of bank, 7-24 ft. from the Bulkhead Line; install ZED® Z40 overhead lighting standards, and guardrails; construct an interpretive kiosk, a sailing mast public art structure, and extend water and sewer service lines at the "C" Street Plaza.

Install a new tidegate on an existing 54-in. diameter reinforced concrete pipe within the "C" Street right-of-way.

"D" St. to "F" St.: Demolish a deteriorated 580-ft.-long x 20-ft.-wide wooden dock structure fronting the former Fisherman's Building and the Hum-Boats Sail, Canoe, and Kayak Center rental yard, consisting of approximately 320 creosote-treated wooden pilings and deteriorated decking. Remove the existing private floating dock and ramp fronting the Hum-Boats rental yard. Remove the existing public floating dock, ramp and the bulkhead wall at the foot of "F" Street.

Continue construction of a concrete public boardwalk extending over Humboldt Bay, generally ranging from 16-24 ft. in width, with lighting and guardrails.

Construct an 8-ft.-wide x 530±-ft. long (5,491 ft<sup>2</sup>) floating dock adjacent to the proposed boardwalk, extending from the east line of "D" Street to approximately 50 ft. west of the west line of "F" Street.

Foot of "F" St.: Install approximately 138 lineal feet of cutoff wall at the foot of "F" Street behind approximately 124 yd<sup>3</sup> (1,120 ft<sup>2</sup>) of rock slope protection.

Construct the 170-ft. wide "F" Street Plaza," from approximately 50 ft. west of the west line of "F" Street to approximately 62 ft. east of the east line of "F" Street, extending from approximately 50 ft. landward of the Bulkhead Line to approximately the Pierhead Line; install lighting, guardrails, and an interpretive kiosk; extend water & and sewer service lines.

Construct a new 18-in. diameter stormdrain and tidegate in the "F" Street right of way.

East of “F” St.: Demolish a deteriorated 50-ft.-long x 30-ft.-wide deteriorated wooden pier structure and approximately fifteen single- and double-spar dolphins, consisting of approximately 60 creosote-treated wooden pilings and deteriorated decking over the southerly 40 feet of the pier, fronting the proposed Humboldt Harbor Inn (Sicard) development.

Install approximately 101 cy<sup>3</sup> (910 ft<sup>2</sup>) of rock slope protection extending from the east line of “F” Street to approximately 190 ft. east of the east line of “F” Street.

Continue construction of a concrete public boardwalk extending over Humboldt Bay, generally ranging from 16-20 ft. in width, extending from approximately 62 ft. east of the east line of “F” Street to approximately 290 ft. east of the east line of “F” Street.

Additional detailing of project improvements (i.e., utilities, boardwalk amenities, public art) are discussed under Findings Sections IV. H, below.

## 2. Marine Resources Mitigation Activities

The project also includes a wetlands mitigation component to be conducted at two off-site locations:

Eureka Small Boat Basin: Designate 20,200 ft<sup>2</sup> of rock slope protection as a mitigation site for an equivalent area (1:1 exchange ratio) of rocky intertidal habitat filled/shaded by the project.

City of Eureka Parcel 4: Create 4,200 ft<sup>2</sup> of intertidal mudflat and 3,000 ft<sup>2</sup> of saltmarsh habitat to replace approximately 5,500 ft<sup>2</sup> of intertidal mudflat and 730 ft<sup>2</sup> of saltmarsh habitat areas shaded and/or filled by the project, at a combination of 1:1 in-kind and out-of-kind replacement habitat areas.

Further details of this portion of the project are discussed under Findings Section IV. H, following.

## B. Site Description.

### 1. Project Site

The project site is located on the eastern shore of Humboldt Bay within the City of Eureka along a reach known as the “Inner Channel” between the City’s central waterfront and Woodley and Indian Islands (see Exhibits 1 and 2). The project setting comprises an urbanized commercial-industrial port that has mostly fallen into disrepair with the decline

in the region's timber and fish processing economies over the last thirty years. With the exception of floating docks at the foot of "C," "D," and "F" Streets, the majority of the site is occupied by an assortment of dilapidated wharfing, piers, and docks unsafe for port uses in their present condition.

Landward of the project site lies the City's "Old Town," a Victorian Era historical district developed primarily with an assortment of retail commercial, professional offices, residential and public uses. Along the waterfront to the east and west of the project site are commercial fishing docks and processing plants. Beyond those facilities lie the City's Adorni Recreational Center and the Wharfinger Building / Eureka Small Boat Basin complex, respectively.

The project site is located at or below the mean high tide line of the sea on tidelands that were legislatively granted to the City of Eureka. These tidelands are co-terminus with the Commission's area of original coastal development permit jurisdiction (see Exhibit 3). Adjoining portions of the overall Dock and Boardwalk Revitalization Project area located above the high tide line (i.e., the "C" and "F" Street Plazas) are within the City of Eureka's coastal development permit jurisdiction. On January 14, 2000, the City of Eureka approved coastal development permit CDP-11-99 authorizing those portions of the revitalization project within City's jurisdiction. The City's action on CDP-11-99 was not appealed to the Commission.

## 2. Mitigation Sites

The proposed location for mitigating rocky intertidal areas filled or shaded by the project is at the Eureka Small Boat Basin, approximately ¼ mile west of the project site. The Boat Basin consists of numerous floating dock slips and walkways constructed within the bay extending from a graded and filled parking lot area. The 1,480-lineal-foot frontage of the Boat Basin has been armored with approximately 92,000 ft<sup>2</sup> of rock slope protection. It is these materials which the City seeks to utilize to offset the proposed loss of rocky intertidal habitat by designating a portion of their coverage as a mitigation site.

"Parcel 4," the mitigation site for intertidal mudflat and saltmarsh habitat areas is a City-owned reclaimed tidelands property located approximately 2½ miles southwest of the project site behind the Bayshore Mall. The parcel consists of an overgrown industrial lot with remnant structural foundations and debris from its former use as a lumber mill. Further descriptions of the mitigation sites are included under Findings Section IV E, below.

## C. Public Access.

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions.

Section 30210 states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212 states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

*(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*

*(2) adequate access exists nearby, or,*

*(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety.

In applying Sections 30211 and 30212, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential public access.

The project site is located adjacent to Humboldt Bay, approximately 1½-mile inland and six miles up-channel from where bay waters enter the Pacific Ocean near the community of King Salmon. Due to the private commercial-industrial development pattern of the central waterfront, public coastal access points to and along the bay in the project area are limited to the foot of “C” and “F” Streets. Within ¼ mile to the east, west, and north of the project area are coastal access facilities, comprising the waterfront trails, boat launches and floating docks fronting the City’s Adorni Recreational Center, Wharfinger Building / Eureka Small Boat Basin complex, and Woodley Island Marina, respectively.

Although not a standard of review in the Commission’s retained jurisdiction area, the City of Eureka’s LCP (adopted February 27, 1997) can be utilized by the Commission as guidance. The LCP addresses access points to Humboldt Bay in the project vicinity. Coastal Recreation and Access Policy 5.B.1. reads, in applicable part, as follows:

*The City shall provide public open space and shoreline access throughout the Coastal Zone, particularly along the waterfront and First Street, through all of the following :...*

*b. Establish a walkway system located on or near the shoreline throughout the city’s waterfront Core Area. [emphases added]*

Among the primary objectives for Eureka’s Dock and Boardwalk Revitalization Project is the goal of socially and economically reintegrating the City with its waterfront. To accomplish this goal, the project proposes to provide extensive coastal access and recreational opportunities for the enjoyment of its residents and visitors. Existing coastal access and recreational facilities within the project area are available only at the foot of “C” and “F” Streets, and along a vacant City lot between “C” and “D” Streets. The proposed project would make available 1,190 lineal feet of modulated-width public boardwalk and 530 lineal feet of floating dock, anchored by two waterfront plazas, providing a variety of active and passive recreational opportunities.

The development would also incrementally contribute to implementing a major goal of the City’s local coastal plan access element by in-filling between other public access facilities (i.e., Adorni Center, Wharfinger complex), for the eventual development of contiguously accessible central waterfront.\*

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\* The Eureka waterfront is composed of a mixture of public and private properties fronting on Humboldt Bay. It should be noted that while the City’s LCP calls for establishing a shoreline walkway “throughout the city’s waterfront Core area,” ingress/egress through some coastal-dependant use areas (i.e., commercial fishing loading docks and processing facilities) may not be appropriate for public safety reasons. Although the City has discussed the possibility of establishing viewing areas for the public to observe fishing dock operations, through-access in these areas may need to be re-routed inland to the sidewalk alongside First Street / Waterfront Drive.



Therefore, the Commission finds that the proposed project, which includes substantial new public access, is consistent with the public access policies of the Coastal Act.

D. Planning and Siting New Development.

Section 30250(a) of the Coastal Act states in applicable part that:

*New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

Coastal Act Section 30252 continues on to state that:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. [emphasis added]*

The proposed development entails a 1,610-ft.long dock and boardwalk complex with associated shoreline protective works located along the central waterfront of the City of Eureka. The project site lies adjacent to City's "Old Town" district, fully developed with community water and sewer services and public utilities availability. The City of Eureka currently provides police, fire protection, and public transit services in the project area. In addition, the proposed project will lie bayward of First Street, and will abut the ends of "C," "D," "E," and "F" Streets, all public roads with fully improved, 60-ft-wide sections (2 lanes, on-street parking, curb, gutter, & sidewalk). The proposed development, therefore, is consistent with Coastal Act Section 30250(a) to the extent that it is located in a developed area with adequate water, sewer, utility, transportation, and other public service capabilities.

### Adequacy of Parking Facilities

In regards to the maintenance and enhancement of public access to the coast under Section 30252, the adequacy of support facilities to serve the project is a concern as the project does not provide dedicated parking spaces for the proposed dock and boardwalk uses. The project would result in the loss of 36 existing on-street parking spaces associated with the closure of “C” and “F” Streets to vehicular traffic north of 1<sup>st</sup> Street . In addition, as the City’s municipal code does not set parking standards for plazas and boardwalks (they are considered by the City as a form of public sidewalk), no parking requirements were established for the project. Further, in adopting the Mitigated Negative Declaration for the project, the City concluded that the project would not result in inadequate parking capacity in the Downtown area. This conclusion was based on (1) the lack of parking requirements within the City’s municipal code for dock and boardwalk projects; (2) the findings and recommendations in previous parking studies conducted for the Downtown area; and (3) parking demand characteristics of prospective dock and waterfront users.

### Off-Street Parking Standards for Waterfront Docks and Boardwalks

In concluding that adequate parking capacity is available to serve the project, the City first cites its municipal code’s lack of off-street parking standards for dock and boardwalks. These facilities are effectively considered a form of public sidewalk for which off-street parking requirements are not enumerated. In such cases, the City relies on the use of on-street parking resources to serve the public use. As discussed under the following rationale, the City concluded that there was ample on-street parking within the project vicinity to adequately serve the proposed project.

### Parking Maximization Study

In 1998, the City of Eureka commissioned a study to survey and analyze parking conditions, identify exist and future problem areas, and develop appropriate solutions for the Downtown and Henderson Center business districts (SPECTRUM Engineering, 3/31/98). With respect to existing conditions in the Downtown area, including the project site vicinity, the report found that:

(W)hile there are acute spot problems [Staff Note: These parking deficient areas are located in the Old Town commercial district, not in proximity to the project site] as reported by several merchants and residents of Eureka, the overall picture is not critical. In all cases, according to the several detailed occupancy and turn-over surveys which we had taken, there is ample parking located within a one block distance from block faces where ample parking is a problem...

Preparation of the SPECTRUM study pre-dated the design of the proposed project. Consequently, no analysis of the effects of the dock and boardwalk was included. However, the report noted the presence of several public parking lots in the project vicinity. These include:

- 1<sup>st</sup> & “C” Street Parking Lot (64 spaces);
- 1<sup>st</sup> & “E” Street Parking Lot (27 spaces); and
- Samoa Bridge Boat Ramp Parking Lot (22 standard spaces, 20 double-length RV / boat trailer spaces).

In addition, walk-through surveys conducted as part of the SPECTRUM report identified several block faces within a 2-block proximity to the project site with typically unused parking spaces:

<b><u>Block Face</u></b>	<b><u>Observed Unused Spaces</u></b>
“C” Street between the waterfront and 1 <sup>st</sup> Street:	9-10
“D” Street between the waterfront and 1 <sup>st</sup> Street:	19-20
“E” Street between the waterfront and 1 <sup>st</sup> Street:	12
“F” Street between the waterfront and 1 <sup>st</sup> Street:	2 - 3
First Street between “C” and “D” Streets:	8 - 9
First Street between “D” and “E” Streets:	7 - 8
First Street between “E” and “F” Streets:	6 - 8
“C” Street between 1 <sup>st</sup> and 2 <sup>nd</sup> Streets:	3 - 6
“D” Street between 1 <sup>st</sup> and 2 <sup>nd</sup> Streets:	1 - 3
“E” Street between 1 <sup>st</sup> and 2 <sup>nd</sup> Streets:	2 - 3
2 <sup>nd</sup> Street between “C” and “D” Streets:	8 - 9
2 <sup>nd</sup> Street between “D” and “E” Streets:	<u>4 - 5</u>
<b>Total Under-Utilized On-Street Parking Spaces within 2 Blocks of Project Site:</b>	<b>81- 96</b>

Based on the results of the Parking Maximization Study, the City concluded there is an abundance of available parking facilities within a reasonable distance from the project site alleviating the need for additional dedicated parking to serve the project.

#### **Parking Demand Characteristics of Dock and Waterfront Users**

Finally, the City of Eureka also based their conclusion regarding the lack of parking impacts from the project based upon the use patterns of typical dock and boardwalk users. It is anticipated that significant portion of waterfront patrons will be visitors to the downtown area, either as customers to its commercial establishments or over-night occupants of visitor-serving facilities such as hotels, motels, and bed & breakfast inns. Many of these visitors will walk to the dock

and boardwalk from these businesses. In those cases, parking will have been provided at facilities serving those commercial uses. In addition, peak use times for waterfront attractions are generally in the evenings and on weekends when many commercial and professional office firms are closed. Consequently, this offset in parking demand will make available additional parking facilities during waterfront peak-use times.

The Commission thus concludes that the proposed project is located in an area with adequate public services availability. Further, the Commission concludes that the project has been designed and sited to include adequate support facilities, including parking, such that public access to the coast will be enhanced and maintained. Accordingly, the project is consistent with Sections 30250 and 30252 of the Coastal Act.

E. Fill in Coastal Waters and the Protection of Marine Resources.

The Coastal Act defines fill as including "...*earth or any other substance or material ... placed in a submerged area.*" The proposed project includes the placement of fill in coastal waters, as the proposed piles, floating dock, and rock slope protection would be placed within intertidal and submerged areas of Humboldt Bay. The total area of fill proposed in coastal waters is 7,115 square feet. In addition, dock and boardwalk structures would shade an approximately 19,315-square-foot area of intertidal mudflat, rocky intertidal, and saltmarsh habitats.

The proposed project could have several potential adverse impacts on estuarine habitat. The piles and rock slope protection would be installed within intertidal mudflat and rocky habitats that support a variety of benthic organisms. In addition, the shading of intertidal areas will reduce incidental sunlight to the euphotic zone, potentially affecting biological productivity.

Several sections of the Coastal Act address the placement of fill within coastal waters and the construction of revetments and similar shoreline structures. Section 30231 provides in applicable part that:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes... shall be maintained and, where feasible restored...*

Section 30233(a) provides as follows, in applicable part:

- (a) *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation*

*measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.[emphases added]*

Section 30235 provides, in applicable part:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from*

*erosion, and when designed to eliminate or mitigate adverse impacts on local sand supply.* [emphases added]

The above policies set forth a number of different limitations on what types of shoreline protection fill projects may be allowed in coastal waters. For analysis purposes, the limitations applicable to the subject project can be grouped into five general categories or tests. These tests are:

1. The purpose of the fill is either for one of the eight uses allowed under Section 30233, to serve coastal dependent uses, or to protect existing structures or public beaches in danger from erosion; and
2. The project is designed to eliminate or mitigate adverse impacts on local sand supply; and
3. The project has no feasible less environmentally damaging alternative; and
4. Adequate mitigation measures are provided to minimize the adverse impacts of the proposed project on habitat values; and
5. Habitat values are maintained and enhanced.

1. Permissible Use for Fill

The first general limitation set forth by the above-referenced Chapter 3 policies is that any proposed fill can only be allowed for certain limited purposes. Under Section 30233(a), fill in coastal waters can only be placed for one of eight different uses, including under sub-sections (1), “commercial fishing facilities,” (4), “in open coastal waters other than wetlands, including streams, estuaries, and lakes, new and expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities,” and (5), “incidental public services purposes, including ...burying... pipes... and maintenance of existing... outfall lines.” The proposed project consists of the placement of solid fill and fixed wharf, boardwalk, dock float piling, and related infrastructure as part of a public waterfront complex for the mooring of commercial fishing vessels, a public boardwalk, and the launching and landing of recreational watercraft. The rock slope protection will serve coastal-dependent uses as the site is used as a combined coastal-dependent commercial dock, recreational boating, and coastal access facility which must be located on or adjacent to water to serve its basic functions. As such, the project consists of “new or expanded coastal-dependant industrial facilities,” “new or expanded boating facility,” and involves the installation of infrastructure for “incidental public service purposes.” Therefore the Commission finds that the purpose of the fill is consistent with subsections (1), (4), and (5) of Section 30233(a) of the Coastal Act and is required to serve a coastal-dependent use consistent with Section 30235 of the Coastal Act.

2. Impact on Local Sand Supply

The proposed seawall will not adversely effect local shoreline sand supply as the structure is sited on an enclosed harbor within Humboldt Bay. No changes in sediment transport for Humboldt Bay should result.

Therefore, the Commission finds that the project, as conditioned, will maintain the biological productivity and quality of Humboldt Bay, consistent with Section 30231 of the Coastal Act. Similarly, as conditioned, the proposed project will maintain the functional capacity of the wetlands as required by Section 30233(c).

3. No Feasible Less Environmentally Damaging Alternatives

A second general limitation set forth by the above-referenced Chapter 3 policies is that any proposed fill project must have no less environmentally damaging feasible alternative.

There are no apparent feasible alternatives to the project that would be less environmentally damaging. The applicant has provided information relating to the size of other pier and boardwalk projects, including the Santa Monica Pier, Santa Cruz Wharf, San Diego Boardwalk and the Port of Long Beach (see Exhibit No. 8). The currently proposed 16 to 76-ft. width of the boardwalk and wharf complex and the number of piles to be driven is not excessive in comparison with typical marinas, piers and boardwalks throughout the state (widths ranging from 12 to 150 feet). The proposed dock and boardwalk will extend no farther into Humboldt Bay than is necessary to meet essential project objectives (i.e., adequate spatial requirements for the loading and off-loading of commercial fishing vessel cargoes, adequate cross-sectional area for boardwalk functions, including the movement of persons, lighting, benches, bay viewing, and potential "sidewalk seating" for future adjoining private commercial visitor-serving uses such as restaurants). In addition, the surface of the piles and sheetpile bulkhead will be self-mitigating to a certain extent, as they will provide a substrate to which intertidal encrusting organisms may attach themselves to, a habitat feature precluded on the existing creosote-treated wooded pile surfaces.

A "no project" alternative would not accomplish the project objectives of providing the City and its visitors with extensive public access and coastal recreational opportunities, providing moorage for commercial fishing vessels, and fostering recreational boating, all priority uses under the Coastal Act. The derelict central waterfront structures would remain in place rendering the area unavailable for such uses, continuing to release wooden debris and hazardous materials into coastal waters from their creosote-treated piles, and visually blighting the area.

In developing plans for the dock and boardwalk complex, the City considered other design options that would have provided better operational advantages at the wharf and expanded access and recreational opportunities boardwalk. One such option involved the

“C” Street to “D” Street boardwalk segment being constructed entirely over bay waters. These project versions involved significantly greater areas of fill and/or encroached into environmentally sensitive eelgrass beds. These options were subsequently rejected because of the additional environmental effects that would have resulted.

Developing the boardwalk in a more landward location --- in the form of an upland promenade --- was also considered. This option was also rejected due to its lack of meeting basic project objectives and other site-specific constraints. One of the primary objectives of the boardwalk is to reintegrate the City of Eureka with its waterfront. To achieve this goal, direct access to the bay waters was presented as being a crucial design element. In addition, many of the adjoining landward parcels are not under City ownership for which the added costs for acquisition could make the project financially infeasible. Even if so acquired, vacant land zoned for coastal-dependent uses in the central waterfront area is limited and generally takes the form of wide parcels with shallow lot depths platted for maximum bay frontage. Development of these properties with an upland boardwalk would leave little building area for development of other adjacent coastal-dependant and compatible waterfront uses.

Another design option considered involved the construction of cantilevered dock and boardwalk structures, where the need for in-water piles might be significantly reduced or eliminated. While this option might reduce the amount of fill in coastal waters, it would require extensive upland excavation and grading, or structural modifications to the project design that would be cost prohibitive.

Therefore, the Commission finds that the proposed reconstruction of the dock and boardwalk involves the least environmentally damaging feasible alternative as required by Section 30233(a).

#### 4. Mitigation for Adverse Impacts

A third general limitation set forth by Sections 30231 and 30233(a) is that adequate mitigation to minimize the adverse impacts of the proposed project on habitat values must be provided.

Feasible mitigation measures are available to mitigate the potential adverse impacts of the project. The three main impacts of the proposed project are (1) the loss of intertidal mudflat, rocky intertidal, and saltmarsh habitat through direct filling with driven piles and rock slope protection; (2) shading of habitat areas by wharf and boardwalk decking; and (3) potential water quality impacts from project construction and accidental spills.

Construction of the rock slope protection will result in the filling of approximately 3,040 square feet of rocky intertidal and mudflat habitat areas below the high water line. In addition, the placement of piles to support the new dock and boardwalk complex will displace approximately 1,251 square feet of mudflat and rocky intertidal habitat. The



installation of sheetpile bulkhead and backfill will also cover a certain amount of intertidal and saltmarsh habitats. Altogether, the filling of approximately 7115 square feet of fill in coastal waters is associated with the project.

Associated with the preceding impact category are the effects associated with the construction of dock and boardwalk decking. These structures will shade an approximately 19,315 square feet area of rocky intertidal, mudflat, and saltmarsh habitat. This shading will reduce the amount of incidental sunlight and potentially decrease the productivity of marine organisms in these areas.

To mitigate for the loss of filled and shaded habitat areas, the City has proposed a mitigation plan, attached as Exhibit No. 6. As discussed in Findings Section IV. A, Project Description, the mitigation plan has three elements: (1) designate 20,200 square feet of rock slope protection at the Eureka Small Boat Basin as mitigation habitat area to replace an equivalent area of rocky intertidal habitat area filled or shaded by the project at a 1:1 exchange ratio; (2) remove an approximately 4,200 square feet of concrete foundation at the City's "Parcel 4" property and establish an equivalent amount of intertidal mudflat without eelgrass to compensate for intertidal mudflat areas shaded by the project at a 1:1 exchange ratio; and (3) excavate approximately 3,000 square feet of upland fill from an area on Parcel 4 and establish an equivalent area of saltmarsh habitat to compensate in-kind for 730 square feet of saltmarsh filled or shaded by the project and out-of-kind for the approximately 1,650 square feet of intertidal mudflat with saltmarsh filled or shaded by the project at a 1:1 exchange ratio.

The proposed rocky intertidal mitigation proposal consists of a mitigation "credit" applied to the rock slope protection previously placed at the Eureka Small Boat Basin, located approximately ¼ mile west of the project site. These materials were placed to armor the shoreline of the boat basin from wave and tidal forces to protect the mooring improvements at the boat basin. The mudflat areas that these materials covered was previously mitigated through creation of on-site, in-kind mudflat habitat (see Coastal Development Permit 1-98-028, approved June 11, 1998).

Although the riprap at the Small Boat Basin might provide viable habitat substrate for encrusting benthic organisms, the scope of that project did not include provisions for establishing a wetland mitigation bank at the site. Consequently, unless that project's coastal development permit is amended for such, recognizing the boat basin's shoreline hardening materials as mitigation area would not be appropriate. However, even without using credit from a previous project, the proposed boardwalk project will mitigate for the loss of rocky intertidal habitat. As mentioned in Findings Section IV. E. 2, above, the intertidal surface area of concrete pilings (459-24" diameter piles @ 6-ft. tidal bore = 20,188 square feet) and sheetpile bulkhead (380 lineal feet @ 6-ft. tidal bore = 2,280 square feet) will provide hard surfaces for encrusting littoral and benthic organisms to attach themselves to at a replacement ratio of approximately 1:1. This habitat feature is not available on the existing creosote-treated piles and bulkheads and approximates the

surface area of rocky intertidal habitat filled or shaded by the project. Accordingly, the project is self-mitigating with respect to the replacement of rocky intertidal habitat areas filled or shaded by the development.

Although proposed for another offsite location, the proposed mitigation for intertidal mudflat and saltmarsh will be developed adjacent to functioning wetland of the same types. The new mudflat area to be created is adjacent to the intertidal mudflat that exists on the mid-Humboldt Bay reaches. The proposed saltmarsh enhancement site is located between two areas where Point Reyes Birdsbeak (*Cordylanthus maritimus* ssp. *palustris*), a rare and endangered saltmarsh plant species, is well established.

The ratio of habitat creation to habitat loss is proposed at 1:1. Although this ratio is low in comparison with the ratio the Commission requires with some projects, the Commission has approved many projects at 1:1 ratios when the kind of habitat involved is unvegetated mudflat, such as the case with portions of the proposed dock and boardwalk project site. The biotic community in unvegetated mudflat areas is relatively simple in comparison with eelgrass or saltmarsh habitats, and the benthic organisms that are commonly found within unvegetated mudflat areas typically can be expected to fully colonize new mudflat areas within a couple of years. Given that the mudflat area at the mitigation site can be created adjacent to an adjoining mudflat habitat, benthic organisms can be expected to migrate to and colonize the new habitat fairly readily.

Similar rationale can be applied to the proposed 1:1 exchange ratio for rocky intertidal habitat. The ecological structure of organisms who utilize this substrate is likewise uncomplicated compared to other benthic communities. In addition, encrusting organisms rapidly colonize new rocky surfaces within a relatively short time frame. As discussed above, the application of a mitigation credit for the previous placement of rock slope protection at the offsite Small Boat Basin after its approval without such a banking provision is not appropriate. However, the on-site mitigation of rocky intertidal habitat with pile and bulkhead surfaces in combination with the removal of decaying treated wooden piles as proposed is consistent with marine resource protection policies.

The mitigation plan also proposes to replace filled or shaded saltmarsh habitat in-kind and a part of lost intertidal mudflat out-of-kind kind at a 1:1 exchange ratio. As previously discussed, the establishment of replacement saltmarsh habitat is not straightforward. Saltmarsh habitat is ecologically complex, utilized by a variety of micro and macro-faunal organisms. Plantings are generally more difficult to establish as their growth and successional rates are slower. Considerable delays between the wetland loss at the development site and wetland establishment at the mitigation site may occur resulting in a net decline in habitat availability. Accordingly, to compensate for the temporal as well as spatial loss of habitat, the Commission finds that increasing the required exchange ratio for in-kind saltmarsh replacement area from 1:1 to 2:1 is appropriate. Imposing this additional mitigation requirement is feasible as there is ample additional area at the mitigation site to accommodate replacement at a 2:1 exchange ratio.

The proposed mitigation plan also includes success standards, monitoring and remedial action procedures. Among these provisions are cross-sectional analysis of saltmarsh plant growth and community structure, and indirect assessment of mudflat re-colonization by benthic and epi-benthic organisms through bird foraging surveys. These performance standards reference relatively low success thresholds: For saltmarsh restoration, a minimum of 50% plant cover, comprised of not less than 50% of the plant species encountered in the adjacent existing saltmarsh is required to be in-place at the end of five years. No quantitative goal for the success of re-colonizing mudflat biota was set. Instead, only the surveying of bird use in the replacement area and comparing the counts with others taken in mudflats adjacent to the mitigation site is specified.

In order for the adverse impacts to habitat values associated with the filling of coastal waters to be adequately mitigated, they should at least approximate the functional capacity of adjacent habitat areas. Determinations of the success of a restoration effort should be based on quantifiable standards that can be objectively monitored and reviewed. The Commission thus finds that revisions to the mitigation plan's exchange ratio and performance criteria are appropriate. Accordingly, Special Condition No. 3 has been imposed, requiring the City to submit a revised mitigation plan for the review and approval by the Executive Director that incorporate an increase in in-kind saltmarsh exchange ratio from 1:1 to 2:1. The condition also includes a requirement that success criteria be based on a statistical comparison with reference habitat areas based on direct quantitative measurements (e.g., stem counts, basal area, benthic habitat survey protocols).

As conditioned, the Commission finds that the project will provide feasible mitigation measures that will adequately mitigate the impacts of the proposed project on the filling and shading of intertidal mudflat, rocky intertidal and saltmarsh habitats.

The proposed project could adversely affect the water quality in Humboldt Bay in at least three principal ways. First, the demolition of the dilapidated dock and pier structures may result in the release of wooden debris into intertidal and submerged areas. No specific preventative or clean-up measures addressing construction debris were identified in the project application. Second, site grading for installation of rock slope protection and other improvements may cause sedimentation of the bay due to entrainment of exposed soils in stormwater runoff or scouring at outfalls. Third, accidental spills associated with operations at the commercial fishing dock could result in hazardous materials entering coastal waters.

To reduce the potential for construction debris to enter the bay, the Commission attaches Special Condition No. 4, which requires that all construction debris be removed from the site upon completion of the project.

To ensure that sedimentation of the bay does not result from erosion of graded areas or scouring at outfalls, the Commission attaches Special Condition No. 5, which requires the

preparation of an erosion and runoff control plan to minimize adverse impacts to coastal waters.

Finally, to reduce the potential for hazardous materials being discharged into the bay from accidental spills at the commercial fishing dock, Special Condition No. 4 requires that a spill prevention and response program be developed as part of the required erosion and runoff control plan.

The Commission finds, that as conditioned, the proposed project will include adequate mitigation to minimize the potential water quality impacts of the project.

The Commission finds, that as conditioned, the proposed project is consistent with the third test for approvable fill projects set forth in Section 30233 of the Coastal Act and the requirements of Section 30231 of the Act in that adequate mitigation for the adverse environmental effects of the proposed project will be provided.

#### 5. Maintenance and Enhancement of Estuarine Habitat Values

The fourth general limitation set by Sections 30231 and 30233(a) on fill projects is that any such proposed project shall maintain and enhance the biological productivity and functional capacity of the habitat, where feasible.

The proposed mitigation plan will both maintain and enhance the biological productivity and functional capacity of Humboldt Bay. As discussed above, the mitigation plan will ensure that through the creation of in-kind and out-of-kind replacement wetlands, there will be no net loss of combined mudflat, rocky intertidal and saltmarsh area. Thus habitat values are maintained. In addition, the proposed out-of-kind replacement for a part of intertidal mudflat area will be with highly valued saltmarsh developed between two existing areas of saltmarsh. These areas support a substantial population of Point Reyes Birdsbeak (Cordylanthus maritimus ssp. palustris), a species included on the Inventory of Rare and Endangered Vascular Plants of California (Skinner and Pavlick, 1994) on List 1B (rare or endangered throughout its range). The removal of existing debris from the intertidal areas during site preparation work at the project site is also proposed by the applicant as a habitat enhancement measure.

Therefore, the Commission finds that the project, as conditioned, will maintain the biological productivity and quality of Humboldt Bay, consistent with Section 30231 of the Coastal Act. Similarly, as conditioned, the proposed project will maintain the functional capacity of the wetlands as required by Section 30233(c).

#### F. Allowable Shoreline Protective Device

Section 30235 of the Coastal Act states, in part, that revetments, breakwaters, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes

shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on shoreline sand supply.

The proposed project includes the placement of approximately 640 lineal feet of rock slope protection (RSP) along the shoreline in areas beneath the proposed boardwalk structure. The RSP will prevent continued bank erosion. The RSP will serve coastal-dependent uses as the site is used as a combined coastal-dependent commercial fishing dock, recreational boating, and coastal access facility which must be located on or adjacent to water to serve its basic functions.

The proposed seawall will not adversely effect local shoreline sand supply as the structure is sited on an enclosed harbor within Humboldt Bay. No changes in sediment transport for Humboldt Bay should result.

Therefore, the project is consistent with Section 30235 of the Coastal Act as the proposed rock slope protection is required to serve coastal-dependent uses and has been designed to minimize adverse impacts on local shoreline sand supply.

G. Geologic Hazards and New Development.

The Coastal Act contains policies to assure that new development provides structural integrity, minimizes risks to life and property in areas of high flood hazard, and does not create or contribute to erosion. Section 30253 of the Coastal Act states in applicable part:

*New development shall:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The project involves grading and filling at or below the high tide line along a portion of Humboldt Bay which was reclaimed in the early 1900's. The area is blanketed in loose sandy fills, containing shell fragments, wooden debris, and other rubble, underlain successively by bay muds, interbedded dense sands and gravel, and stiff clay. These materials do not provide a competent building platform. Therefore, the dock and boardwalks structures have been designed to bear on pile foundations.

The geotechnical study for the project (Harding Lawson, 4/16/99) sets forth three sets of recommendations addressing site preparation and fill placement, the jetting and driving of pile pipes, and the installation of the interconnecting sheetpile bulkhead. To ensure that stability of the project site and the structural integrity of the dock and boardwalk improvements, the Commission attaches Special Condition No. 6, which requires that the recommendations of the geo-technical report be followed in constructing the project.

The Commission finds, that as conditioned, the proposed project will include adequate measures to insure structural stability, minimize risks to life and property from geologic instability, and ensure that erosion, geologic stability, or destruction of the site is prevented, consistent with Section 30253 of the Coastal Act.

#### H. Visual Resources.

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

Furthermore, in designated highly scenic coastal areas, permitted development must be subordinate to the character of its setting.

The project site is located along the shoreline of Humboldt Bay, between the first public (First Street) road and the sea. Due to the presence of existing waterfront structures, views to and along the ocean are limited to the ends of “C” and “F” Streets and from a vacant parcel between “C” and “D” Streets. The City of Eureka LCP designates the northern waterfront area in general and the foot of “F” Street in particular as “scenic vista points”. As noted previously, the LCP is not the standard of review for the project, but provides useful guidance. With respect to visual resource protection in such project area, Land Use and Development Framework Policies 1.H.1, 1.H.2, and 1.H.4 provide:

*1.H.1. The City shall promote unobstructed view corridors to the waterfront from public streets and other public spaces through careful building siting and effective street tree maintenance.*

*1.H.2. The City shall create a gateway to the waterfront / inner harbor at the foot of F Street, defining the terminus of the street (e.g., flags, ship masts).*

*1.H.4. The City shall establish landmark features (e.g., buildings, sculptures) at the terminus of key Core Area streets, most importantly at the west end of 2<sup>nd</sup> Street (B Street) and at the foot of F Street.*

Policy 1.D.1 goes on to address ensuring that new waterfront development occur in harmony with and enhance the character of the Old Town area:

*The City shall retain the historic waterfront building scale and general character in waterfront revitalization and development as a means of creating a 'Victorian Seaport' identity for the waterfront area. New buildings developed along the waterfront north of First Street / Waterfront Drive should not exceed three stories or 50 feet in height.*

The project entails the construction of a 1,610-ft.-long concrete dock and boardwalk complex extending to a height of approximately 12 feet above mean low water (mllw). At such height, the dock and boardwalk structure will approximate that of the existing docks, wharfing, and piers in the project area, making the project visually compatible with the character of the surrounding area. In addition, the development of a dock and boardwalk along the project site will be subordinate to the character of the Old Town setting, an urbanized waterfront.

In addition to the dock and boardwalk structure itself, the project application also enumerated several improvements to be installed for the finished boardwalk and plaza areas. These include the installation of pathway lighting, informational kiosks and interpretative signage, benches, trash receptacles, planters, and drinking fountains along the boardwalk. Of these amenities, only the maximum height of the informational kiosks (16 feet above mllw) and generalized "typicals" of lamppost standards, benching, etc. were included in the application materials. In addition, decorative focal-point structural attractions are planned to be deployed at the two street plazas. Preliminary designs identify installation of boat play structure at the "C" Street Plaza, and erection of a sailing mast at the "F" Street Plaza (see Exhibit No. 7). City staff have indicated that while including the development of these features within the permit authorization for the dock and boardwalk is desired, the finalized design of lighting and boardwalk amenities has not been completed at this time. Accordingly, no thorough assessment of the potential impacts to coastal visual resources has been conducted for these finalized boardwalk elements.

To ensure that the scenic and visual qualities of coastal areas shall be considered and protected, the Commission attaches Special Condition No. 7, which requires that plans for boardwalk and plaza amenities establish that they will be visually compatible and subordinate to the character of the project setting. Imposing these standards is appropriate to ensure that in authorizing the design of submitted project improvements, any deviations in their final forms are adequately assessed with regard to their effect on coastal views and their physical expression with respect to the character of the area.

The Commission finds, that as conditioned, the proposed project will: (a) include adequate measures to insure that the scenic and visual qualities of coastal areas are considered and protected; (b) insure that permitted development is sited and designed to protect views to and along the ocean and scenic coastal areas; (c) minimize the alteration of natural land forms; (d) be visually compatible with the character of surrounding areas; and (e) be subordinate to the character of its setting.

I. State Waters

The project site is located in areas that were formerly State-owned waters or are otherwise subject to the public trust. However, these State-owned waters were transferred to the City of Eureka through a legislative grant. Therefore the applicant has the necessary property rights to carry out the project on former State-owned lands

J. U.S. Army Corps of Engineers Review

The project requires the review and approval by the U.S. Army Corps of Engineers. Pursuant to the Federal Coastal Zone Management Act, any permit issued by a federal agency for activities that affect the coastal zone must be consistent with the coastal zone management program for that state. Under agreements between the Coastal Commission and the U.S. Army Corps of Engineers, the Corps will not issue a permit until the Coastal Commission approves a federal consistency certification or permit for the project. To ensure that the project ultimately approved by the Corps is the same as the project authorized herein, the Commission attaches Special Condition No. 2 which requires the permittee to submit to the Executive Director evidence of U.S. Army Corps of Engineers approval for the project prior to the commencement of work.

K. California Environmental Quality Act.

Section 13906 of the California Code of Regulation requires Coastal Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Public Resources Code Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

The proposed project has been conditioned to be consistent with the policies of the Coastal Act and the requirements of PRC §21080.5(d). Special condition(s) have been attached to require mitigation measures which will minimize all adverse environmental impacts. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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**EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Jurisdictional Map (excerpt)
4. Project Site Plans
5. Surface Feature Site Plans
6. Mitigation Plan
7. Preliminary / Conceptual Plans for Boardwalk Plaza Improvements
8. Information on Other Dock and Pier Projects

## APPENDIX A

### **STANDARD CONDITIONS**

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.